

AnEARLY START GUIDE for **FAMILIES** 

Revised 2003



#### **Publishing Information**

Parents' Rights: An Early Start Guide for Families was developed under the leadership of the Department of Developmental Services (DDS) in collaboration with the California Department of Education. It was produced through a contract with the WestEd Center for Prevention and Early Intervention.

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# Introduction

E arly Start is a statewide system of early intervention services for infants and toddlers, from birth to 36 months of age, with disabilities or at risk of having disabilities and their families.

Services are provided in a family-centered, multidisciplinary, interagency, and community-based system. California's Early Start system is governed by federal and state statutes and regulations.

Parents\* have rights and access to procedural safeguards to assure that early intervention services are provided in a manner appropriate to their child's needs and to the concerns of the family.

This booklet is intended for parents and other interested persons and provides information on parents' rights under Early Start.

<sup>\*</sup> See page 3 for definition of parent as used in this booklet.

Statute and regulation citations are provided in the margins of this booklet to enable the reader to refer to the specific language found in law. The federal statute governing Early Start is Part C of the Individuals with Disabilities Education Act (IDEA), Title 20, United States Code, Section 1431 et seq.

Federal regulations are found in Title 34, Code of Federal Regulations (CFR), Part 303.

The state law governing Early Start is the California Early Intervention Services Act, Government Code (GC), Section 95000 et seq. State regulations are found in Title 17, California Code of Regulations (CCR), Section 52000 through Section 52175.

If you have questions concerning your rights as a parent under Early Start, please contact your regional center or local education agency.

# Confidentiality & Access to Records

arly Start records are an important source of information about your child. The information you provide to the regional center or local education agency (LEA) about your child and your family is confidential. Such information will only be shared with authorized persons involved in your child's services.

#### As a parent, \* you have the right to

CFR 303.402 CCR 52164 CCR 52168 1. access records, including the right to have you or your representative examine and obtain copies of records relating to your child; You may request that any regional center or LEA amend or remove information relating to your child from the records.

CCR 52164

2. receive, within five days of your request, copies of records relating to your child and/or explanations that you request;

CCR 52168

**3.** request a meeting with the director of the regional center or the superintendent of the LEA about information contained in the record; and

CFR 303.401 CFR 303.460 CCR 52160 CCR 52162 CCR 52165 CCR 52169 4. have personally identifiable information about your child maintained in a confidential manner and have its sources, access, uses, and policies for location, storage, disclosure, retention, and destruction explained to you per the Family Education Rights and Privacy Act.

CFR 303.19 CCR 52000(b)(36)

- \* In Early Start, parent means:
  - (A) A natural or adoptive parent of a child;
  - (B) A guardian;
  - (C) A person acting in place of a parent (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare);
  - (D) A surrogate parent who has been assigned in accordance with CFR 303.406 and CCR 52175; or
  - (E) A foster parent, when:
    - 1. The foster parent has no interest that would conflict with the interests of the child,
    - 2. The natural parents' authority to make the decisions required of parents has been limited or relinquished under State law, and
    - 3. The foster parent is willing to make the decisions required of parents.

# Evaluation & Assessment

CFR 303.322 CFR 303.406 CCR 52082 he determination of eligibility for Early Start in California includes a timely, comprehensive, multi-

disciplinary evaluation and assessment of every child under age three years who is suspected to be in need of early intervention services. If no parent or guardian is available or the child is a ward of the court, a knowledgeable surrogate parent who has no conflicting interest will be appointed. Procedural safeguards ensure that families are provided their rights under the law.

CFR 303.403 GC 95020(c) CCR 52160 CCR 52161

#### As a parent, you have the right to

1. be fully informed of your rights under Early Start;

CFR 303.401 CFR 303.404 CCR 52040(d) 2. refer your child for evaluation and assessment, provide information throughout the process, make decisions, and give informed consent for your child's early intervention services;

CFR 303.405 CCR 52162 **3.** understand and provide voluntary written permission or refusal before the initial evaluation and assessments are administered:

CFR 303.404 Note 2 CCR 52172(b) Consent for evaluation and assessment is required only at the time of initial evaluation and assessment to receive services. (If consent is refused, the regional center or LEA may take steps to obtain an initial evaluation without parental consent.)

GC 95020 GC 95020 CCR 52082 CCR 52084

**4.** participate in the initial evaluation and assessment process including eligibility determination;

CFR 303.321 CFR 303.322 CCR 52086 **5.** receive a completed initial evaluation and assessment within 45 days after the referral of your child to a regional center or an LEA;

GC 95020(b)

**6.** participate in a meeting to share the results of evaluations and assessments; and

CFR 303.343 GC 95014(a) GC 95020(b) CCR 52082(a) CCR 52104 **7.** participate in all decisions regarding eligibility and services.

The Individuals	with Disabilities	s Education Act	(IDEA)
requires the follow	ving:		

CFR 303.323 CCR 52084 CFR 303.323 CCR 52082

- 1. Evaluation and assessment materials are administered in the language of the parents' choice or other mode of communication, unless it is clearly not feasible to do so.
- **2.** Evaluation and assessment procedures and materials are selected and administered so as not to be racially or culturally discriminatory.

CCR 52082 CFR 303.322

CFR 303.322

**3.** Evaluation and assessment materials are appropriate to assess the specific areas of developmental need and are used for the specific purposes for which they were designed.

CCR 52082 CCR 52084

• 4. Evaluations and assessments are conducted by qualified personnel.

CFR 303.322 CCR 52082 **5.** Evaluations and assessments administered to children with known vision, hearing, orthopedic, or communication impairments are selected to accurately reflect the child's developmental level.

CFR 303.322 CCR 52082 CCR 52084 CCR 52102 **6.** Evaluations and assessments are administered in the five developmental areas, which include physical development (motor abilities, vision, hearing, and health status); communication development; cognitive development; adaptive development; and social or emotional development. Assessments and evaluations are ongoing while your child is in Early Start.

CCR 52082(i) CCR 52084(e) **7.** Evaluations and assessments shall be conducted in natural environments whenever possible.

CFR 303.322 CCR 52082 **8.** Pertinent records relating to your child's health status and medical history are reviewed.

CFR 303.323 CCR 52082

**9.** No single procedure is used as the sole criterion for determining your child's eligibility for early intervention services.

CFR 303.322 CCR 52084 CCR 52106 **10.** Interviews to identify family resources, priorities, and concerns regarding the development of your child and your family's needs are voluntary.

## Individualized Family Service Plan

CFR 303.340 CFR 303.342 GC 95020(b) CCR 52100 CCR 52102 n individualized family service plan (IFSP) is a written plan for providing early intervention services to an eligible child and the child's family. For an infant or toddler who has been evaluated for the first time, a meeting must take place within 45 days of the referral to the regional center or LEA to share the results of the evaluation, to determine eligibility, and, for children who are eligible, to develop the initial IFSP. Evaluation results and determination of eligibility may be shared with families prior to the first IFSP meeting.

CFR 303.342 CCR 52102 A periodic review of your child's IFSP must take place at least every six months. A review may occur more frequently if there are any changes to the IFSP or if you request a periodic review with the regional center or LEA. The IFSP must also be reviewed annually to evaluate how your child is doing and to make any needed changes to the IFSP.

During the development and impl	lementation of an IFSI	Р,
you have the right as the parent to	0	

CFR 303.343 CCR 52104 1. attend the IFSP meetings and participate in developing the IFSP;

CFR 303.343 CCR 52104 2. invite other family members to attend IFSP meetings;

CFR 303.343 CCR 52104 **3.** invite an advocate or persons other than family members to attend and participate in the IFSP meetings;

CFR 303.402 CCR 52102

**4.** have a copy of the complete IFSP;

CFR 303.342 CFR 303.403 CCR 52102 **5.** have the contents of the IFSP fully explained in the language of your choice;

CFR 303.342 CFR 303.404 CFR 303.405 CCR 52102 **6.** give consent to services listed on the IFSP. If you do not give consent to a service, it will not be provided. You may withdraw consent after initially accepting or receiving a service;

CFR 303.12 CFR 303.344 CCR 52106

**7.** have services provided in the natural environment or an explanation of why that is not possible;

CFR 303.460 CCR 52112 CCR 52169

**8.** exchange information about your child among other agencies;

CFR 303.403 CCR 52161 9 be notified in writing before any agency or service provider proposes or refuses to initiate or change your child's identification, evaluation, assessment, placement, or the provision of appropriate early intervention services to your child or your family.

CFR 303.400 to 303.460 CCR 52161

- The notice must contain:
- the action that is proposed or refused
- reasons for the action
- all available procedural safeguards

The notice must be presented in the language of your choice, unless it is clearly not feasible to do so, and may be translated so that you understand its contents; and

CCR 52109(c)

**10.** voluntarily use private insurance to pay for evaluation, assessment, and required early intervention services on the IFSP.

### Complaints, Mediation Conferences,

CFR 303.422 CCR 52170 CCR 52172 CCR 52173 CCR 52174 n Early Start, parents have rights and protections to assure that early intervention services are provided to their children in a manner appropriate to their needs, in consideration of family concerns, and in compliance with applicable federal and State statutes and regulations. The following procedures are only for children under the age of three years.

#### As a parent, you have the right to

CFR 303.419 CFR 303.420 CCR 52172 1. request a mediation conference and/or a due process hearing any time a regional center or LEA proposes or refuses to initiate or change the identification, evaluation, assessment, placement, and/or provision of appropriate early intervention service(s);

CFR 303.510 CCR 52170 2. be informed of your right to file a complaint;

CFR 303.511 CCR 52170 **3.** file a complaint if you believe there has been a violation of any law governing early intervention services under Early Start; and

CCR 52171(e)

**4.** file a complaint if a due process decision fails to be implemented.

CFR 303.510 CFR 303.510 CFR 303.511 CCR 52170

#### **Compliance Complaints**

Any individual or organization may file a signed, written complaint against the Department of Developmental Services (DDS), the California Department of Education (CDE), or any regional center, LEA, or private service provider that receives Part C funds alleging violations of State or federal early intervention statutes or regulations. The complaint process can also address remedies for denial of appropriate services. Information or assistance in filing complaints is available from your child's service coordinator, the regional center office, or the special education local plan area (SELPA). DDS and CDE are available for consultation regarding the filing of a complaint. Additional assistance is available from advocacy organizations such as the State Council on Developmental Disabilities or Protection and Advocacy, Inc. As efforts to resolve the matter at the local level are undertaken, a complaint may be filed concurrently with a request for a mediation conference and/or due process hearing.

### & Due Process Hearings

CFR 303.510 CCR 52170	Complaints are filed directly with the			
	Department of Developmental Services			
	Office of Human Rights and Advocacy Services			
	Attention: Early Start Complaint Unit			
	1600 9th Street, Room 240, MS 2-15			
	Sacramento, CA 95814			
	(916) 654-1888 Fax: (916) 651-8210			
CFR 303.511 CCR 52170	lack Any individual or organization who files a complaint has the right to			
CCR 52170	1. receive assistance in filing the complaint from the service coordinator, regional center, or LEA;			
GC 95007 CCR 52170	2. not be compelled to use any other procedures under the Education Code or the Lanterman Developmental Disabilities Services Act to resolve the complaint;			
CFR 303.512(a)(2)	<b>3.</b> submit additional information to DDS that may be helpful to the investigation;			
CFR 303.512(c) CCR 52171	• 4. receive a final written decision within 60 days of the date DDS receives the complaint;			
CFR 303.512 CCR 52171(a)(4)	• 5. receive appropriate remedies that may include monetary reimbursement or other corrective action, and assurance that services will be provided appropriately in the future if the decision of DDS includes remedies for denial of appropriate services;			
CFR 303.512(c) CCR 52171(c)	• 6. have any issue in a complaint that is not part of a due process hearing be resolved by DDS within 60 days of the receipt of the complaint;			
CCR 52171(d)	<ul> <li>7. be notified by DDS that the hearing decision is binding if an issue is being raised in a complaint that had previously been decided in a due process hearing involving the same parties; and</li> </ul>			
CCR 52171(e)	<b>8.</b> have any complaint resolved that alleges the failure of a public agency or private service provider to implement a due process decision.			
	•			

### Complaints, Mediation Conferences,

### The complaint must 1. be in writing and the regional center.

CFR 303.511 CCR 52170 1. be in writing and contain a signed statement alleging that DDS, CDE, the regional center, LEA, or other service provider involved with Early Start has violated a federal or State law or regulation;

CCR 52170

2. provide the name, address, and phone number of the complainant;

CFR 303.511 CCR 52170 3. contain a statement of facts upon which the violation is based;

CCR 52170

**4.** include the name of the party responsible;

CCR 52170(c)

- **5.** have occurred not more than one year before the date the complaint is received by DDS unless a longer period is reasonable because the alleged violation continues for the child or other children, or
- **6.** have occurred not more than three years before the date on which the complaint is received by DDS if the complainant is requesting reimbursement or corrective action as remediation of the complaint; and

CCR 52170

**7.** the complaint may also include, if applicable, a description of the voluntary steps taken at the local level to resolve the complaint.

#### Mediation Conferences and Due Process Hearings

CFR 303.419 CFR 303.420 CCR 52172 CCR 52173 CCR 52174

All parents are encouraged to resolve differences at the lowest administrative level possible. When differences between you and a regional center or LEA cannot be resolved, voluntary impartial mediation and due process hearings are available. You, as a parent, are encouraged to seek assistance from either your child's service coordinator, the regional center, or the SELPA office.

CFR 303.403(a) CFR 303.419 CCR 52172 Circumstances leading to a mediation or due process hearing may be disagreements related to a proposal or refusal for identification, evaluation, assessment, placement, or services.

CFR 303.425 CCR 52172(f) Your child will continue to receive the early intervention services identified on the IFSP that he/she is currently receiving unless you and the regional center or LEA otherwise agree. If your disagreement involves a new service that has not started, your child will receive all services identified on the IFSP that are not in dispute.

### & Due Process Hearings

CFR 303.420 CCR 52172 Requests for a mediation conference and/or a due process hearing are filed with the Office of Administrative Hearings serving your county:\*

#### Imperial, Riverside, San Bernardino, or San Diego Counties

Office of Administrative Hearings Attention: Early Intervention Section 1350 Front Street, Suite 6022 San Diego, CA 92101 (619) 525-4475 Fax: (619) 525-4419

#### Inyo, Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara, or Ventura Counties

Office of Administrative Hearings Attention: Early Intervention Section 320 West Fourth Street, Suite 630 Los Angeles, CA 90013 (213) 576-7200 Fax: (213) 576-7244 Alameda, Contra Costa, Del Norte, Humbolt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, or Sonoma Counties 1515 Clay Street, Suite 206 Oakland, CA 94612 (510) 622-2722 Fax: (510) 622-2743

#### All other counties

Office of Administrative Hearings Attention: Early Intervention Section 560 J Street, Suite 300 Sacramento, CA 95814 (916) 445-4926 Fax: (916) 323-6439

\*The mediation conference and/or due process hearing request form may be obtained from your service coordinator, the regional center, the LEA, and the DDS website: www.dds.ca.gov/Forms/pdf/DS1802.pdf

CFR 303.423 CCR 52172 The impartial mediation conference and/or due process hearing must be completed within 30 days of receipt of the request by the Office of Administrative Hearings. The timely issuance of the written decision may not be delayed by any concurrent voluntary local efforts to resolve the matter. The decision will be final unless appealed.

### Complaints, Mediation Conferences, & Due Process Hearings

CFR 303.422 CCR 52172	lack As a parent, you have the right to
CFR 303.421 CCR 52173 CCR 52174	<ul> <li>have the mediation conference and/or due process hearing conducted by an impartial person not employed by an agency serving your child who is knowledgeable in the laws relating to early intervention and the service needs of infants, toddlers, and families;</li> </ul>
CFR 303.423 CCR 52172	• 2. require that the proceeding is carried out at a time and in a location that is reasonably convenient for you;
CFR 303.460 CCR 52160 CCR 52169	<ul> <li>a. have all personally identifiable information maintained in a confidential manner;</li> </ul>
CFR 303.424	<ul><li>4. bring a civil action against the other party following completion of the proceeding if you disagree with the results;</li></ul>
CFR 303.425 CCR 52172	5. receive services identified on the IFSP that are not in dispute; and
CCR 52173(j)	6. have mediation discussions kept confidential and not used as evidence in any subsequent due process or civil proceedings.
	During a due process hearing, you also have the right to
CFR 303.422 CCR 52174	<ul> <li>be accompanied and advised by counsel and/or by individuals with special knowledge with respect to early intervention services for children under age three years;</li> </ul>
CFR 303.422 CCR 52174	<ul><li>present evidence, confront, cross-examine, and compel the attendance of witnesses;</li></ul>
CFR 303.422 CCR 52174	<ul><li>3. prohibit the introduction of any evidence at the proceeding that has no been disclosed to you at least five days before the proceeding begins;</li></ul>
CFR 303.422 CCR 52174	<ul> <li>4. obtain a written or electronic verbatim transcription of the proceeding;</li> <li>and</li> </ul>
CFR 303.422 CCR 52174	• 5. obtain written findings of facts and decisions within 30 days from the

date the request is filed.



California Early Start is an interagency system of coordinated early intervention services administered by the Department of Developmental Services in collaboration with the California Department of Education.

www.dds.ca.gov/earlystart

